

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

8 EXCEDIS CORPORATION, a Nevada) 3:16-cv-00514-HDM-WGC
9 limited liability company,)
10 Plaintiff,)
11 vs.)
12 EDWARD BOLLMAN, an individual,)
13 JAMES KERR, an individual, *et al.*,)
14 Defendants.)
15 EDWARD BOLLMAN, an individual,)
16 and JAMES KERR, an individual,)
17 Counterclaimants,)
18 vs.)
19 EXCEDIS CORPORATION, a Nevada)
20 limited liability company,)
21 Counterdefendant.)
22 EDWARD BOLLMAN, an individual,)
23 and JAMES KERR, an individual,)
24 Third Party Plaintiffs,)
25 vs.)
26 THOMAS RIPLEY, an individual,)
27 PATRICK HOGAN, an individual,)
JEAN HOGAN, an individual,)
CATHERINE A. MEAD, an individual,)
Third Party Defendants.)
ORDER

1 Before the court is the “Discovery Motion” of Edward Bollman and James Kerr which seeks an
2 order of this court compelling Third Party Defendant Thomas Ripley to appear for his deposition in “the
3 San Francisco Bay Area” (ECF No. 104-1 at 12) and to order Ripley to pay “cost sanctions” occasioned
4 by Ripley’s repeated failure to appear for his deposition. (ECF No. 106.) No opposition was submitted
5 to the Motion to Compel (ECF No. 104) or the Motion for Sanctions (ECF No. 106).

6 At the court’s telephonic motion hearing of June 15, 2018, the court granted the motion to
7 compel and ordered Ripley to appear for his deposition. (ECF No. 111 at 2.) The court also granted the
8 request for “cost sanctions” and directed counsel to submit a proposed order. (*Id.*) On July 2, 2018,
9 counsel for Bollman and Kerr submitted a proposed order as directed by the court. (ECF No. 115.)

10 **Order Re: ECF No. 104 : Motion to Compel**

11 As outlined above, the court previously granted the motion compelling Ripley to appear for his
12 deposition. (ECF No. 111.) In furtherance of that order, Third Party Defendant Ripley was ordered to
13 contact counsel for Bollman and Kerr, Albert L. Thuesen, III, to identify the exact date he will appear.
14 Should Third Party Defendant Ripley not contact counsel and/or not appear for his deposition, Bollman
15 and Kerr may move the court for further appropriate relief from the court.

16 **Order Re: ECF No. 106 : Motion for “Cost Sanctions”**

17 This motion was characterized as one seeking “cost sanctions” (ECF No. 106). Bollman and
18 Kerr sought reimbursement “for the expenses of this motion and to deter further non-compliance...”
19 (ECF No. 106-1 at 12). The motion was predicated on Fed. R. Civ. P. 37(a)(5)(A) which allows the
20 court to award “the movant’s reasonable expenses incurred in making the motion including attorney’s
21 fees.” (*Id.* at 11.)

22 The declaration of attorney Thuesen represents his hourly billing rate of \$750 an hour is “fair and
23 reasonable.” (ECF No. 106-2 at 5, subparagraph p.) In the proposed order, Bollman and Kerr seek a
24 “monetary sanction in the amount of \$6,307.44.” (ECF No. 115 at 3.) However, no breakdown or
25 itemization of the sum of \$6,307.44 was provided. While the court has granted Bollman-Kerr’s request
26 for “cost sanctions” (ECF No. 106; ECF No. 11 at 2), the court requires documentation of the cost and
27 expenses - and attorney’s fees - Bollman and Kerr incurred “for the necessity of [the motion to compel]
28 ...” (ECF No. 106 at 2; ECF No. 106-1 at 12.) Counsel for Bollman and Kerr shall submit a declaration

1 within **ten (10) days** of this order itemizing the expenses, costs and fees incurred by reason of the motion
2 to compel.

3 DATED: July 9, 2018.
4

5 *William G. Cobb*
6

7

WILLIAM G. COBB
8 UNITED STATES MAGISTRATE JUDGE
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28